

EXECUTIVE SECRETARIAT

ROUTING SLIP

TO:

| | | ACTION | INFO | DATE | INITIAL |
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| 2 | DDCI | | X | | |
| 3 | EXDIR | | X | | |
| 4 | D/ICS | | X | | |
| 5 | DDI | | | | |
| 6 | DDA | | X | | |
| 7 | DDO | | | | |
| 8 | DDS&T | | | | |
| 9 | Chm/NIC | | | | |
| 10 | GC | | X | | |
| 11 | IG | | | | |
| 12 | Compt | | | | |
| 13 | D/OCA | | | | |
| 14 | D/PAO | | | | |
| 15 | D/PERS | | X | | |
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SUSPENSE

Date

Remarks

ER 88-4374X

[Signature]
Executive Secretary

28 Nov '88

Date

3637 (10-81)

2-259-15

ROUTING SLIP

TO:

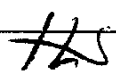
| | | ACTION | INFO | DATE | INITIAL |
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SUSPENSE _____
Date

ER

Remarks

ER 88-4374X


Executive Secretary

28 Nov '88

Date

3637 (10-81)

EXECUTIVE HISTORY

88-4374X

THE WHITE HOUSE

WASHINGTON

November 22, 1988

MEMORANDUM FOR MEMBERS OF THE CABINET AND AGENCY HEADS

FROM: ARTHUR B. CULVAHOUSE, JR. *Be*
COUNSEL TO THE PRESIDENT
NANCY J. RISQUE *Nancy*
ASSISTANT TO THE PRESIDENT AND CABINET SECRETARY

SUBJECT: Memoranda on Future Employment Negotiations
and Post-Employment Restrictions

Attached for your information are memoranda recently distributed to the White House staff on future employment negotiations and post-employment restrictions. You may wish to consider similar advice for appropriate members of your staff.

We suggest you consult with your designated agency ethics official for further advice on the subject.

Attachments

DCI
EXEC
REG


L-259-15

THE WHITE HOUSE

WASHINGTON

November 9, 1988

MEMORANDUM FOR WHITE HOUSE STAFF

FROM: ARTHUR B. CULVAHOUSE, JR. 
COUNSEL TO THE PRESIDENT

SUBJECT: Avoiding Conflicts of Interest
in Seeking Future Employment

The White House, the Executive Office of the President and the Administration will continue to pursue a full agenda during the remaining months of President Reagan's term. At the same time, it is reasonable some of us will begin considering options for employment once we leave the White House.

We wish to re-emphasize that you must exercise caution in conducting any negotiations with future employers while, at the same time, carrying out the duties and responsibilities of your current office. The statutory provision governing substantive conflicts of interest, 18 U.S.C. § 208, includes a specific restriction on handling matters related to an entity with whom the employee is discussing future employment. This memorandum summarizes the more detailed discussion of that provision found in the White House Office Staff Manual and other available materials. This criminal statute provides that an employee may not participate personally and substantially in any particular matter in which the entity with whom he is negotiating for employment has a financial interest.

If you begin to discuss possible employment options with any person or organization, and that person or organization could potentially be affected by matters under your consideration, these matters should be handled by others within your office, and you should notify your superiors that you will not participate in any matter relating to or affecting such person or organization. Such a "recusal" notice should be submitted in writing with a copy to Counsel's office. If your discussions about future employment with a particular entity are terminated, you may withdraw your recusal.

Questions sometimes are raised regarding negotiations which are considered ongoing or "open." Essentially as soon as a potential employment contact becomes a two-party discussion, negotiations have opened and remain open -- and a recusal policy should be implemented -- until one of the parties affirmatively closes the discussions.

The statutory provision mentioned above should be applied carefully to your individual situation during the remaining days of the Administration. Employees in the Executive Office of the President also are subject to regulatory standards of conduct found in 3 C.F.R. Part 100, which prohibit actual or apparent conflicts between your official position and private interests. Application of these laws and regulations to specific circumstances can be difficult. You are encouraged to seek advice regarding your specific situations from Counsel's office. In addition, if warranted by the amount of interest shown, a briefing to discuss these issues may be conducted by my office.


Your service to the President and the nation has been and will continue to be extremely valuable. Careful attention to avoiding conflicts-of-interest will enable you to continue contributing to the fullest degree possible toward accomplishing the goals of this Administration.

THE WHITE HOUSE

WASHINGTON

November 9, 1988

MEMORANDUM FOR WHITE HOUSE STAFF

FROM: ARTHUR B. CULVAHOUSE, JR. 
COUNSEL TO THE PRESIDENT

SUBJECT: Restrictions on Post-Employment Activities
of Former Government Employees

As President Reagan's term begins to draw to a close, many of you are beginning to consider plans for the future that may involve employment outside the U.S. government. This appears to be an appropriate time to remind you of the current restrictions on certain employment activities following your departure from government. What follows is not intended as an exhaustive legal analysis of the statutes and applicable regulations nor does it replace the detailed discussion in the White House Office Staff Manual and in the materials given all departing employees. Rather, this memorandum is intended to emphasize that you must be sensitive to situations in which you may need to contact appropriate ethics officers in your former agency or otherwise seek legal guidance. It should be noted that this memorandum addresses the current provisions of relevant statutes. Amendments recently passed by Congress would not take effect for nine months following the date of signing by the President, and the White House has not yet received those amendments for Presidential consideration and decision. Persons leaving government service prior to the effective date of the amendments are still subject to the current statutes regardless of whether the amendments become law.

Provisions Applicable to All Employees

The post employment restrictions are criminal laws and fall into essentially four categories. The first two apply to all former federal employees. They are:

1. A lifetime bar from representing any other person before the United States in any particular matter involving specific parties in which the employee participated personally and substantially as an official.
2. A two year bar from representing any other person before the United States in any particular matter involving specific parties that was pending under the employee's official responsibility within one year before leaving office.

Provisions Applicable to "Senior Employees"

The other two post-employment provisions apply to "senior employees" as defined by the statute. Civilian senior employees include officials paid under the "executive level" system or paid at an equivalent rate, and other designated senior officials. The executive level pay system begins at the \$72,500 annual rate. In the White House Office only officials receiving executive level equivalent salaries are included in the senior employee category and there are no additional designated officials. However, other components of the Executive Office of the President do have designated officials who are covered by these provisions even though paid less than the executive level. If you are unsure whether the senior official restrictions will apply to you, contact your Designated Agency Ethics Official or Counsel's office. The post-employment restrictions applicable only to former senior employees are:

1. A two year bar from assisting in representing any other person through personal presence at an appearance before the United States in any particular matter involving specific parties in which the employee participated personally and substantially.
2. A one year bar from representing anyone before the employee's former agency or from making any communication to any employee of that agency with the intent to influence, on any particular matter of direct and substantial interest to the agency. This is the restriction commonly referred to as the "one year cooling-off period" and has been interpreted broadly to prohibit almost all contacts with the former agency involving policy, legislation, proceedings, personnel decisions and other pending substantive matters.

These restrictions are criminal laws of the United States and should be taken very seriously by all former government employees. You have the primary responsibility for applying the rules in your post-government employment. There is, however, assistance available to you in interpreting the provisions in the context of your specific circumstances. The Office of the Counsel to the President (or your agency's counsel, if you work in an office with separate counsel) is available for consulting on questions of post-employment activity. In the near future, my office will also schedule briefings on this issue to which you will be invited. In addition, the Office of Government Ethics has authority to provide advice on these questions.

Assuring that there are no post-employment problems with your future activities not only will be advantageous to you personally, but will also prevent your record of accomplishments in service to President Reagan and the American people from being compromised in any way. This is an important goal for all of us as the President carries out the remainder of his term in office.